THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.7654 OF 2005

ORAL ORDER:

The 2nd respondent herein, in exercise of the powers under Section 7A of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (for short "the Act"), passed orders dated 26.7.2004 directing the petitioner-establishment to remit a sum of Rs.3,54,441.80n ps towards EPF contributions for the period from February, 2002 to March, 2003, together with a sum of Rs.73,355/- towards interest payable under Section 7Q of the Act. Challenging the same, the petitioner filed W.P.No.19209 of 2004. The said writ petition was disposed of by this Court by order dated 14.10.2004 granting liberty to the petitioner to prefer an appeal before the appellate Tribunal. This Court, having taken note of the fact that the appellate Tribunal was not functioning, ordered that subject to the condition that the petitioner deposits 50% of the amount demanded under the impugned order within eight weeks, no coercive steps shall be taken for recovery of the amount. It was also made clear that the appellate Tribunal shall not insist for payment of 50% of the demand, if the petitioner produces evidence that he had complied with the order in the writ petition and that the appeal shall be decided on merits. Subsequently, though the petitioner preferred appeal under Section 7-I of the Act, admittedly, he failed to deposit the amount as directed by this Court in W.P.No.19209 of 2004. Having taken note of the said fact, the appellate Tribunal passed order dated 30.12.2004 as under:

> "Proof of deposit of 50% of the determined amount in terms of the order of the Hon'ble High Court has not been filed with the appeal. Appellant shall furnish the proof of deposit of the 50% of the determined amount pursuant to the order of the Hon'ble High Court of Andhra Pradesh in this Tribunal within 6 weeks. Fix the matter on 3.3.2005. In case proof of deposit is produced the appeal shall be deemed admitted. However, in case proof of deposit is not furnished by the appellant in this Tribunal, the appeal shall be rejected/dismissed on the next date under the provisions of Section 7-O of EPF & MP Act,

1952. Copy of this order be sent to the appellant for compliance and his appearance on the next date."

The said order is under challenge in this writ petition.

I have heard the learned counsel for both the parties and perused the material on record.

It is pleaded in the writ petition that though the directions of this Court in W.P.No.19209 of 2004 could not be complied with within the time specified due to financial crisis, subsequently on 4.4.2005 the petitioner had deposited a sum of Rs.1,77,221/- being 50% of the amount assessed towards Provident Fund contributions.

In the circumstances, the learned counsel for the petitioner contended that it would be appropriate to set aside the impugned order dated 30.12.2004 and to restore the appeal.

On the other hand, the learned counsel appearing for the respondents pointed out that as per the assessment dated 26.7.2004, apart from Rs.3,54,441.80 ps towards Provident Fund contributions, the petitioner is liable to pay a further sum of Rs.73,355/- towards interest and, therefore, the amount said to have been deposited by the petitioner on 4.4.2005 was not in compliance with the order of this Court in W.P.No.19209 of 2004.

The learned counsel also points out that as on today, the Tribunal is not functioning for want of Presiding Officer.

In the circumstances, and keeping in view that admittedly the petitioner had deposited half of the Provident Fund contributions, instead of driving the petitioner to approach the Tribunal for restoration of Appeal, I deem it appropriate to dispose of the writ petition holding that the appeal shall stand restored, subject to the condition that the petitioner deposits half of the interest payable under the impugned order of assessment dated 26.7.2004 within two weeks from today. Till disposal of the appeal, the respondents shall not take any coercive steps against the petitioner on compliance with the above condition.

The writ petition is accordingly disposed of. No costs.

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(G. ROHINI, J.)

12th October, 2006.

Issue CC by tomorrow.

Kgr

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.7654 OF 2005

12th October, 2006.

Between:

T.V.V.M. Murthy. .. Petitioner.

And

The Registrar, E.P.F. appellate Tribunal,
60, Skylark Building, 7th Floor,
Nehru Place, New Delhi and another. ..
Respondents.